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HW

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:

JACKSON et al.

Serial No.: 10/688,216

Filed: October 15, 2003

Atty. File No.: 4770-37

For: "AUTOMATED EXCAVATION
MACHINE"Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Group Art Unit: 3673

Examiner: KRECK, JOHN J.

INFORMATION DISCLOSURE STATEMENT"EXPRESS MAIL" MAILING LABEL NUMBER: EV368037130US
DATE OF DEPOSIT: 5/24/04I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING
DEPOSITED WITH THE UNITED STATES POSTAL SERVICE
"EXPRESS MAIL POST OFFICE TO ADDRESSEE" SERVICE
UNDER 37 C.F.R. 1.10 ON THE DATE INDICATED ABOVE AND IS
ADDRESSED TO THE COMMISSIONER FOR PATENTS, P.O. BOX
1450, ALEXANDRIA, VA 22313-1450.

TYPED OR PRINTED NAME: Amy S. Duarte

SIGNATURE:

Dear Sir:

The references cited on attached Form PTO-1449 are being called to the attention of the Examiner.

☒ Copies of the cited non-patent and/or foreign references are enclosed herewith.

☒ Copies of the cited U.S. patents/patent application publications are not enclosed in accordance with the waiver dated July 11, 2003, whereby patent applications filed after June 30, 2003 and international applications that have entered the national stage under 35 U.S.C. § 371 after June 30, 2003 need not submit copies of U.S. patents and U.S. patent application publications.

☐ Copies of the cited references are not enclosed, in accordance with 37 C.F.R. 1.98(d), because the references were submitted to the U.S. Patent and Trademark Office in prior application Serial No. _____ filed _____, which is relied upon for an earlier filing date under 35 U.S.C. § 120.

☒ To the best of applicants' belief, the pertinence of the foreign-language references are believed to be summarized in the attached English abstracts and in the figures, although applicants do not necessarily vouch for the accuracy of the translation.

☒ Examiner's attention is drawn to the following co-pending application, a copy of which need not be submitted under the waiver dated July 11, 2003:

Serial No. 10/309,237 filed December 4, 2002 (U.S. Pub. No. 2003/0173819 A1)

☒ Other: A copy of PCT Invitation to Pay Additional Fees for International App. No. PCT/IB03/05356 (Atty. Ref. 4770-37-PCT) is attached hereto.

Submission of the above information is not intended as an admission that any item is citable under the statutes or rules to support a rejection, that any item disclosed represents analogous art, or that those skilled in

the art would refer to or recognize the pertinence of any reference without the benefit of hindsight, nor should an inference be drawn as to the pertinence of the references based on the order in which they are presented. Submission of this statement should not be taken as an indication that a search has been conducted, or that no better art exists.

It is respectfully requested that the cited information be expressly considered during the prosecution of this application and the references made of record therein.

FEES

<input checked="" type="checkbox"/>	<p>37 CFR 1.97(b): No fee is believed due in connection with this submission, because the information disclosure statement submitted herewith satisfies one of the following conditions ("X" indicates satisfaction):</p> <p><input type="checkbox"/> Within three months of the filing date of a national application other than a continued prosecution application under 37 CFR 1.53(d), or</p> <p><input type="checkbox"/> Within three months of the date of entry into the national stage of an international application as set forth in 37 CFR 1.491 or</p> <p><input checked="" type="checkbox"/> Before the mailing date of a first Office Action on the merits, or</p> <p><input type="checkbox"/> Before the mailing of a first Office action after the filing of a request for continued examination under 37 CFR 1.114.</p> <p>Although no fee is believed due, if any fee is deemed due in connection with this submission, please charge such fee to Deposit Account 19-1970.</p>
<input type="checkbox"/>	<p>37 CFR 1.97(c): The information disclosure statement transmitted herewith is being filed after all the above conditions (37 CFR 1.97(b)), but before the mailing date of one of the following conditions:</p> <p>(1) a final action under 37 C.F.R. 1.113 or</p> <p>(2) a notice of allowance under 37 C.F.R. 1.311, or</p> <p>(3) an action that otherwise closes prosecution in the application.</p> <p>This Information Disclosure Statement is accompanied by:</p> <p><input type="checkbox"/> A Certification (below) as specified by 37 C.F.R. 1.97(e). Although no fee is believed due, if any fee is deemed due in connection with this submission, please charge such fee to Deposit Account 19-1970.</p> <p style="text-align: center;">OR</p> <p><input type="checkbox"/> A check in the amount of \$180.00 for the fee set forth in 37 C.F.R. 1.17(p) for submission of an information disclosure statement. Please credit any overpayment or charge any underpayment to Deposit Account No. 19-1970.</p>
<input type="checkbox"/>	<p>37 CFR 1.97(d): This Information Disclosure Statement is being submitted after the period specified in 37 CFR 1.97(c).</p> <p><input type="checkbox"/> This information Disclosure Statement includes a Certification (below) as specified by 37 C.F.R. 1.97(e)</p> <p style="text-align: center;">AND</p> <p><input type="checkbox"/> Applicants hereby requests consideration of the reference(s) disclosed herein. Enclosed is the fee in the amount of \$180.00 under 37 C.F.R. 1.17(p). Please credit any overpayment or charge any underpayment to Deposit Account No. 19-1970. Election to pay the fee should not be taken as an indication that applicant(s) cannot execute a certification.</p>

Certification (37 C.F.R. 1.97(e))
(Applicable only if checked)

☐ The undersigned certifies that:

☐ Each item of information contained in this information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this statement. 37 C.F.R. 1.97(e)(1).

☐ A copy of the communication from the foreign patent office is enclosed.

OR

☐ No item of information contained in this information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the undersigned after making reasonable inquiry, no item of information contained in this Information Disclosure Statement was known to any individual designated in 37 C.F.R. 1.56(c) more than more than three months prior to the filing of this statement. 37 C.F.R. 1.97(e)(2).

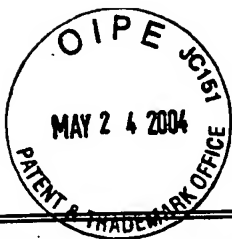
Respectfully submitted,

SHERIDAN ROSS P.C.

By: 

Douglas W. Swartz
Registration No. 37,739
1560 Broadway, Suite 1200
Denver, Colorado 80202-5141
(303) 863-9700

Date: May 22, 2004



SHEET 1 OF 8

FORM PTO-1449

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICEINFORMATION DISCLOSURE STATEMENT
(Use several sheets if necessary)ATTY. DOCKET NO.
4770-37SERIAL NO.
10/688,216APPLICANT
JACKSON et al.FILING DATE
October 15, 2003GROUP ART
3673

U.S. PATENT DOCUMENTS

*EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUB CLASS	FILING DATE IF APPROP.
	1.	1,176,884	03/28/16	E.L. Davidson			
	2.	1,211,679	01/09/1917	Gogu Constantinesco			
	3.	1,566,460	12/22/25	Wyman			
	4.	3,309,145	03/14/67	Arentzen	299	71	
	5.	3,341,254	09/12/67	Amdt	299	18	
	6.	3,371,964	03/05/68	Karl-Heinz Weber	299	1.1	
	7.	3,477,762	11/11/69	Frenyo et al.	299	10	
	8.	3,544,075	12/01/1970	David B. Sugden	259	1	
	9.	3,581,500	06/01/1971	David B. Sugden	60	54.5R	
	10.	3,584,918	06/15/71	Gaglione et al.	299	31	
	11.	3,596,724	08/03/1971	Bechem	175	331	
	12.	3,598,445	08/10/71	Winberg	299	31	
	13.	3,647,263	03/07/72	Lauber et al.	299	31	
	14.	3,663,054	05/16/72	Dubois	299	18	
	15.	3,695,717	10/03/72	Birrer	299	31	
	16.	3,719,394	03/06/73	Hartley	299	1.1	
	17.	3,776,592	12/04/73	Ewing	299	1	
	18.	3,784,257	01/08/74	Lauber et al.	299	31	
	19.	3,788,703	01/29/74	Thorpe	299	14	
	20.	3,840,270	10/08/74	Allgood	299	14	
	21.	3,847,584	11/12/74	Houser et al.	65	40	

EXAMINER

DATE CONSIDERED

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

FORM PTO-1449 U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE INFORMATION DISCLOSURE STATEMENT (Use several sheets if necessary)	ATTY. DOCKET NO. 4770-37	SERIAL NO. 10/688,216
	APPLICANT JACKSON et al.	
	FILING DATE October 15, 2003	GROUP ART 3673

	22.	3,860,292	01/14/1975	Bechem	299	86	
	23.	3,861,748	01/21/75	Cass	299	10	
	24.	3,904,244	09/09/75	Haspert	299	34.04	
	25.	3,907,366	09/ 23/75	Pender	299	18	
	26.	3,957,310	05/18/76	Winberg et al.	299	31	
	27.	3,963,080	06/15/76	Walker	175	94	
	28.	4,045,088	08/30/77	Bechem	299	31	
	29.	4,045,088	08/30/1977	Bechem	299	31	
	30.	4,159,852	07/03/79	Montgomery	299	56	
	31.	4,176,884	12/79	Erwien et al.	299	34.08	
	32.	4,189,186	02/19/80	Snyder	299	31	
	33.	4,232,905	11/11/80	Dick	299	31	
	34.	4,284,368	08/18/81	Albright	405	291	
	35.	4,312,541	01/26/82	Spurgeon	299	31	
	36.	4,323,280	04/06/82	Lansberry	299	1	
	37.	4,375,594	03/01/83	Ewanizky, Jr.	307	110	
	38.	4,391,469	07/05/83	Arsuaga	299	11	
	39.	4,527,837	07/09/85	Snyder	299	31	
	40.	4,541,848	09/17/85	Masuda	55	139	
	41.	4,548,442	10/22/85	Sugden et al.	299	10	
	42.	4,568,127	02/04/86	Traumüller et al.	299	81	
	43.	4,572,583	02/25/86	Traumüller et al.	299	81	
	44.	4,578,627	03/25/86	Dröschner et al.	318	632	
	45.	4,591,209	05/27/86	Dröschner et al.	299	1	
	46.	4,603,910	08/05/86	Laneus	299	13	

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	APPLICANT JACKSON et al.	
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	47.	4,637,657	01/20/87	Snyder	299	31	
	48.	4,641,889	02/10/87	Brandl	299	75	
	49.	4,643,567	02/17/87	Dröschner et al.	356	152	
	50.	4,662,685	05/05/87	Bärnthal et al.	299	33	
	51.	4,664,449	05/12/87	Bärnthal et al.	299	74	
	52.	4,669,785	06/02/87	Brandl	299	68	
	53.	4,688,855	08/25/87	Bärnthal et al.	299	75	
	54.	4,696,518	09/29/87	Zitz et al.	299	75	
	55.	4,711,502	12/08/87	Bärnthal et al.	299	33	
	56.	4,729,445	03/08/88	Kolleth	180	9.46	
	57.	4,735,458	04/05/88	Wrulich et al.	299	81	
	58.	4,736,987	04/12/1988	Lenzen et al.	299	86	
	59.	4,741,405	05/03/88	Moeny	175	16	
	60.	4,744,431	05/17/88	Stöllinger	180	9.5	
	61.	4,753,484	06/28/88	Stolarczyk	299	1	
	62.	4,758,049	07/19/88	Wernigg et al.	299	33	
	63.	4,770,469	09/13/88	Schellenberg et al.	299	1	
	64.	4,784,439	11/15/88	Wrulich et al.	299	57	
	65.	4,786,112	11/22/88	Brandl	299	76	
	66.	4,796,713	01/10/1989	Bechem et al.	175	96	
	67.	4,805,963	02/21/89	Kogler et al.	299	33	
	68.	4,815,543	03/28/1989	Lenzen et al.	175	350	
	69.	4,834,197	05/30/89	Bauer et al.	175	91	
	70.	4,875,738	10/24/89	Zitz et al.	299	80	
	71.	4,878,714	11/07/89	Bärnthal et al.	299	67	

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	72.	4,884,847	12/05/89	Bessinger et al.	299	1	
	73.	4,921,307	05/01/90	Braun et al.	299	34	
	74.	4,921,309	05/01/90	Harrison	299	75	
	75.	4,957,606	09/18/90	Juvan	204	164	
	76.	4,958,696	09/25/90	Lerchbaum	180	6.7	
	77.	4,966,417	10/30/90	Zitz et al.	299	33	
	78.	5,007,683	04/16/91	Granskog	299	10	
	79.	5,050,934	09/24/91	Brandl et al.	299	33	
	80.	5,072,994	12/17/91	Brandl et al.	299	67	
	81.	5,098,166	03/24/92	Ebner et al.	299	81	
	82.	5,103,705	04/14/1992	Bechem	83	491	
	83.	5,108,154	04/28/92	Brandl et al.	299	76	
	84.	5,121,971	06/16/92	Stolarczyk	299	1.6	
	85.	5,161,857	10/10/92	Mayercheck	299	30	
	86.	5,178,494	01/12/93	Zitz et al.	405	290	
	87.	5,181,934	01/26/93	Stolarczyk	299	1.2	
	88.	5,190,353	03/02/1993	Bechem	299	86	
	89.	5,228,552	07/20/93	Brandl et al.	198	515	
	90.	5,268,683	12/07/93	Stolarczyk	340	854.4	
	91.	5,333,936	08/02/94	Zitz	299	64	
	92.	5,340,199	08/23/94	Piefenbrink et al.	299	10	
	93.	5,368,369	11/29/94	Maity et al.	299	11	
	94.	5,438,517	08/01/95	Sennott et al.	364	449	
	95.	5,439,274	08/08/95	Krueckl	299	59	
	96.	5,513,903	05/07/96	Mraz	299	18	

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	97.	5,557,979	09/24/96	Krassnitzer et al.	74	377	
	98.	5,582,467	12/10/96	Drolet et al.	299	33	
	99.	5,685,615	11/11/1997	Bechem et al.	299	110	
	100.	5,752,572	05/19/1998	Baiden et al.	175	26	
	101.	5,810,447	09/22/98	Christopher et al.	299	30	
	102.	5,896,938	04/27/99	Moeny	175	1	
	103.	5,939,986	08/17/99	Schiffbauer et al.	340	573.1	
	104.	5,964,305	10/12/1999	Arzberger et al.	175	91	
	105.	5,992,941	11/30/01	Delli-Gatti, Jr.	299	64	
	106.	5,999,865	12/07/99	Bloomquist et al.	701	25	
	107.	6,027,175	02/22/00	Seear et al.	299	18	
	108.	6,058,029	05/02/00	Itow et al.	363	59	
	109.	6,062,650	05/16/00	Smith et al.	299	1.4	
	110.	6,109,699	08/29/00	Mraz	299	10	
	111.	6,139,477	10/31/2000	Bechem et al.	483	1	
	112.	6,164,388	12/26/00	Martunovich et al.	175	1	
	113.	6,206,478	03/27/01	Uehara et al.	299	33	
	114.	6,215,734	04/10/01	Moeny	367	147	
	115.	6,224,164	05/01/01	Hall et al.	299	75	
	116.	6,244,664	06/12/01	Ebner et al.	299	80.1	
	117.	6,257,671	07/10/01	Siebenhofer et al.	299	1.6	
	118.	6,308,787	10/30/01	Alft	175	48	
	119.	6,315,062	11/13/01	Alft et al.	175	45	
	120.	6,431,653 B1	08/13/002	Kleuters	299	31	
	121.	6,505,892 B1	01/14/2003	Walker et al.	299	32	

EXAMINER

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	APPLICANT JACKSON et al.	
	FILING DATE October 15, 2003	GROUP ART 3673

	122.	6,547,336 B2	04/15/2003	Hoffmann	299	10	
	123.	2001/0015573	08/23/01	Mraz	299	10	12/13/00
	124.	2002/0096934 A1	07/25/2002	Seear et al.	299	18	
	125.	2002/0074849 A1	06/20/2002	Paschedag et al.	299	13	
	126.	2002/0093239 A1	07/18/2002	Sugden	299	71	
	127.	2003/0173819 A1	09/18/03	Hames et al.	299	001.9	12/04/02

FOREIGN PATENT DOCUMENTS

		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUB CLASS	TRANSLATION	
							YES	NO
	128.	AU-B-12696/88	03/04/88	Australia	E21D	9/10	X	
	129.	AU-A-62506/86	09/09/86	Australia	E21C	27/24	X	
	130.	AU-A-55091/86	03/24/86	Australia	E21C	27/30	X	
	131.	AU-B-37937/85	01/21/85	Australia	E21C	27/24	X	
	132.	AU-B-45200/85	07/19/85	Australia	E21C	27/24	X	
	133.	AU-B-45843/85	08/06/85	Australia	E21C	27/24	X	
	134.	AU-B-74104/94	09/20/94	Australia	E21C	035/06	X	
	135.	AU-B-36721/84	11/15/84	Australia	E21D	9/08	X	
	136.	AU-B-17369/83	07/27/83	Australia	E21C	27/24	X	
	137.	AU-B-71066/81	05/27/81	Australia	E21C	27/01	X	
	138.	AU-B-66910/81	08/20/81	Australia	E21C	27/24	X	
	139.	AU-B-56857/80	03/26/80	Australia	E21C	27/24	X	
	140.	AU-B-56858/80	03/26/80	Australia	E21C	27/24	X	

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	141.	1 262 368	10/17/89	Canada	E21C	27/24	X	
	142.	1 218 388	02/24/87	Canada	E21C	27/24	X	
	143.	1 214 797	12/02/86	Canada	E21C	25/16	X	
	144.	2,291,043	5/19/98	Canada	E21D	9/10	X	
	145.	2,121,044	09/22/92	Canada	E21C	029/00	X	
	146.	2,109,921	05/20/92	Canada	E21D	9/10	X	
	147.	115 942 A2	01/25/84	EPO			X	
	148.	115 942 B1	05/12/90	EPO	E21D	9/10	X	
	149.	JP59192195 A2	10/31/84	Japan	E21D	9/10		X
	150.	WO 98/35133	08/13/98	PCT	E21C	27/24	X	
	151.	WO 97/48883	12/24/97	PCT	E21C	29/24	X	
	152.	WO 85/02653	06/20/85	PCT	E21C	41/00	X	
	153.	WO 84/02951	08/02/84	PCT	E21D	9/08	X	
	154.	WO 0043637	07/27/00	PCT	E21D	9/10	X	
	155.	WO00/46486	08/10/00	PCT	e21c	25/16	X	
	156.	WO 03/050391 A2	06/19/03	PCT	E21C	25/16	X	
	157.	99/7873	03/12/01	South Africa				
	158.	99/2714	10/25/99	South Africa				
	159.	98/8239	09/09/98	South Africa	E21C			
	160.	97/4804	12/09/97	South Africa				
	161.	92/3455	05/13/92	South Africa	E21C			
	162.	92/3454	05/13/92	South Africa	E21C			
	163.	84/9431	12/84	South Africa				
	164.	83/3060	04/29/83	South Africa	E21C			
	165.	82/1297	02/26/82	South Africa				

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	166.	94/4480	06/22/94	South Africa	E21C		X	
	167.	2000/7587	12/18/00	South Africa	E21C		X	
	168.	2002/6394	08/12/02	South Africa	E21C		X	
	169.	735,749	08/07/53	United Kingdom	85	AID2		
	170.	GB 2 120 579 A	12/07/83	United Kingdom	B02C	19/18		

OTHER ART (Including Author, Title, Date, Pertinent Pages, etc.)

	171.	AGH ASSOCIATES, "Reef Miner Projects," http://www.reefminer.com/ , September 24, 01, pages 2.
	172.	AGH ASSOCIATES, "Reef Miner Questions," http://www.reefminer.com/page3.html .
	173.	AGH ASSOCIATES, "Reef Miner Description," http://www.reefminer.com/page2.html .
	174.	Brochure entitled "BAUER Trench Cutter Systems"
	175.	Application Notes, Hi-Vac, 12 pages, undated.
	176.	New-Vac Mining Brochure, 9 pages, undated.
	177.	Sixth International Symposium on Mine Mechanization and Automation, The South Africa Institute of Mining and Metallurgy, Johannesburg 2000, 284 pages.
	178.	"McArthur River Uranium," <u>Mining Magazine</u> (Oct. 1997), available at http://www.wma-minelife.com/uranium/mining/art138.htm .

EXAMINER	DATE CONSIDERED
*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.	